



[Billing Code 6355-01-P]

CONSUMER PRODUCT SAFETY COMMISSION

[Docket No. CPSC-2013-0019]

16 CFR Part 1227

Revisions to Safety Standard for Carriages and Strollers

AGENCY: Consumer Product Safety Commission.

ACTION: Direct final rule.

SUMMARY: In accordance with section 104(b) of the Consumer Product Safety Improvement Act of 2008 (“CPSIA”), also known as the Danny Keysar Child Product Safety Notification Act, the U.S. Consumer Product Safety Commission (“Commission” or “CPSC”) has published consumer product safety standards for numerous durable infant or toddler products, including a safety standard for carriages and strollers. The standard incorporated by reference the ASTM voluntary standard for carriages and strollers, with a modification. In August 2011, Congress enacted a public law, which sets forth a process for updating standards that the Commission has issued under the authority of section 104(b) of the CPSIA. In accordance with that process, we are publishing this direct final rule, revising the CPSC’s standard for carriages and strollers to incorporate by reference a more recent version of the applicable ASTM standard.

DATES: The rule is effective on October 2, 2016, unless we receive significant adverse comment by [insert date 30 days after publication in the **FEDERAL REGISTER**]. If we receive timely significant adverse comments, we will publish notification in the *Federal Register*, withdrawing this direct final rule before its effective date. The

incorporation by reference of the publications listed in this rule is approved by the Director of the Federal Register as of October 2, 2016.

ADDRESSES: You may submit comments, identified by Docket No. CPSC-2013-0019, by any of the following methods:

Submit electronic comments in the following way:

Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments. To ensure timely processing of comments, the Commission is no longer accepting comments submitted by electronic mail (e-mail), except through www.regulations.gov.

Submit written submissions in the following way:

Mail/Hand delivery/Courier (for paper, disk, or CD-ROM submissions), preferably in five copies, to: Office of the Secretary, Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504-7923.

Instructions: All submissions received must include the agency name and docket number for this document. All comments received may be posted without change, including any personal identifiers, contact information, or other personal information provided, to <http://www.regulations.gov>. Do not submit confidential business information, trade secret information, or other sensitive or protected information electronically. Such information should be submitted in writing.

FOR FURTHER INFORMATION CONTACT: For information related to the carriages and strollers standard, contact: Rana Balci-Sinha, Director, Division of Human

Factors, Consumer Product Safety Commission, 5 Research Place, Rockville MD 20850; telephone: 301-987-2584; email: rbalcisinha@cpsc.gov.

SUPPLEMENTARY INFORMATION:

A. Background

The Danny Keysar Child Product Safety Notification Act. The Consumer Product Safety Improvement Act of 2008 (CPSIA, Pub. L. 110-314) was enacted on August 14, 2008. Section 104(b) of the CPSIA, also known as the Danny Keysar Child Product Safety Notification Act, requires the Commission to promulgate consumer product safety standards for durable infant or toddler products. The law requires that these standards are to be “substantially the same as” applicable voluntary standards or more stringent than the voluntary standards if the Commission concludes that more stringent requirements would further reduce the risk of injury associated with the product. On March 10, 2014, the Commission published a final rule issuing a standard for carriages and strollers that incorporated by reference the standard in effect at that time, ASTM F833-13b, with a modification to address potential hazardous openings created by adjustable grab bar/tray and foot rest configurations. 79 FR 13208. The standard was codified in the Commission’s regulations at 16 CFR part 1227.

Pub. L. 112-28. On August 12, 2011, Congress enacted Pub. L. 112-28, amending and revising several provisions of the CPSIA, including the Danny Keysar Child Product Safety Notification Act. The revised provision sets forth a process for updating CPSC’s durable infant or toddler standards when the voluntary standard upon which the CPSC standard was based is changed.

If an organization revises a standard that has been adopted, in whole or in part, as a consumer product safety standard under this subsection, the Commission must be notified. The statute further provides that the revised voluntary standard shall be considered to be a consumer product safety standard issued by the Commission under section 9 of the Consumer Product Safety Act (15 U.S.C. 2058), effective 180 days after the date on which the organization notifies the Commission (or such later date specified by the Commission in the Federal Register) unless, within 90 days after receiving that notice, the Commission notifies the organization that it has determined that the proposed revision does not improve the safety of the consumer product covered by the standard and that the Commission is retaining the existing consumer product safety standard. Pub. L. 112-28, section 3.

Notification of Revisions. On April 5, 2016, ASTM notified the CPSC of ASTM's approval and publication of revisions to ASTM F833-13b in a revised standard approved on November 1, 2015, ASTM F833-15, Standard Consumer Safety Performance Specification for Carriages and Strollers (ASTM F833-15). As discussed below, the Commission has reviewed the differences between 16 CFR part 1227 and ASTM F833-15.

B. Revisions to the ASTM Standard

There are several differences between 16 CFR part 1227 (which references ASTM F833-13b) and the revised version of the standard, ASTM F833-15. We summarize the differences and the CPSC's assessment of the revisions below.

Definition of Convertible Car Seat/Stroller. The 2015 version of the ASTM standard adds a definition for a "convertible car seat/stroller" to clarify the distinction

between a convertible car seat/stroller (*i.e.*, a car seat with wheels and a handle that can convert to a stroller) and a combined unit of a car seat on a stroller. The definition is referenced in a revised section regarding convertible car seat/strollers, which allows an exemption for restraints used in motor vehicles.

CPSC staff's review shows that the addition of a definition for "convertible car seat/stroller" adds clarity to the revised standard because this definition is used in a revised section regarding performance requirements for combination units of a car seat on a stroller and convertible car seat/stroller. The addition of this definition is neutral regarding safety.

Definitions of Tray/Grab Bar Locking and Stop Positions. The 2015 version of the ASTM standard adds two new definitions that describe locking and stop positions of the tray/grab bar. These definitions are then referenced in revised sections clarifying the performance requirement and test methods associated with passive containment/foot opening.

CPSC staff's review shows that the addition of definitions for tray/grab bar locking and stop positions improve clarity to the revised standard because these definitions are used in revised sections for performance requirements and test methods applicable to passive containment/foot openings. The addition of these definitions is neutral regarding safety.

Requirements for Static Load Associated with Step/Footrest. The 2015 version of the ASTM standard repeats a requirement that any step or footrest on a stroller shall support a static load of 50 lbs under the performance requirements section, as well as under the test methods for static load.

CPSC staff's review shows that the addition of a separate section repeating the static load requirement adds clarity to the revised standard because the provision is equally applicable to both the performance requirement and test method sections. The addition of this section is neutral regarding safety.

Requirements for Combination Unit of a Car Seat on a Stroller and Convertible Car Seat/Stroller. The 2015 version of the standard allows products that are used as a car seat and that can convert to a stroller using the same restraint as the car seat, to be exempt from the stroller restraint system anchor points and crotch strap location requirements. The restraint systems for car seats sold in the United States are regulated under Federal Motor Vehicle Safety Standard No. 213 (FMVSS 213).

CPSC staff's review shows that adding the exemption for a restraint system that is certified to restrain a child in a motor vehicle is neutral regarding safety because the restraint systems must comply with the FMVSS requirements. In addition, aside from the restraint system, the combination unit of a car seat on a stroller must still comply with all of the other applicable requirements when the car seat is installed in all of the manufacturer's recommended use positions.

Requirements for Passive Containment/Foot Opening, Testing Tray/Grab Bar Locking Positions, and Testing Tray/Grab Bar Positions. The 2015 version of the standard requires testing of all applicable positions of the adjustable grab bar/tray that may create a hazardous opening. These positions consist of locking positions (including positions intended for non-occupant use), as well as stop positions (not a locking position but a position where tray/grab bar can remain stationary when a 5 lb force is applied for 10 seconds).

CPSC staff's review shows that the revisions improve the safety of the standard set forth in 16 CFR part 1227 to address hazardous openings created by adjustable grab bar/tray and foot rest configurations. In its regulation, the CPSC required that tests be conducted in the position "most likely to cause failure." *See* 16 CFR 1227.2(b). The 2015 version of the standard provides additional clarity indicating that the test has to be repeated, depending on the number of adjustments that can be made in the grab bar/tray, as well as footrest or calf support positions. The revised test method is a clearer test and will improve the safety of the standard because all potentially hazardous openings will be evaluated.

Warning Statements for Jogging Strollers. The 2015 version of the standard clarifies the warning label requirements associated with strollers that have a removable-wheel fork assembly and strollers that are three-wheeled with a locking front wheel and are intended to be used for running, jogging, or walking fast, requiring the units to display the warning label. The warning content remains unchanged.

CPSC staff's review shows that the revisions on the warning label requirements improve the safety of strollers. The version referenced in 16 CFR part 1227, ASTM F833-13b, could be interpreted to require warning labels only on jogging strollers with a removable-wheel fork assembly. The 2015 version of the standard clarifies that the warning label requirements apply to: (1) any stroller with a removable wheel fork assembly for the label that is placed on the front wheel fork; and (2) any three-wheeled stroller intended to be used while jogging, walking fast, or running with a locking front wheel. Accordingly, the revised standard makes clear that all of these types of three-wheeled strollers must display warning labels.

Assessment of the Revisions to the ASTM Standard. Under Pub. L. 112-28, unless the Commission determines that ASTM's revision "does not improve the safety of the consumer product covered by the standard," ASTM F833-15 will become the new mandatory standard for carriages and strollers. As discussed above, based on the CPSC staff's review, the Commission believes that certain revisions are neutral regarding safety. However, other revisions will improve the safety of standard, including the clarifications to the testing for adjustable grab bar/tray and foot rest configurations and warning labels. Consequently, the Commission did not determine or notify ASTM that the revised standard does not improve the safety of carriages and strollers.

In accordance with Pub. L. 112-28, the revised ASTM standard for carriages and strollers, therefore, becomes the new CPSC standard 180 days after the date the CPSC received notification of the revision from ASTM. This rule revises the incorporation by reference at 16 CFR part 1227, to reference the ASTM standard, ASTM F833-15.

C. Direct Final Rule Process

The Commission is issuing this rule as a direct final rule. Although the Administrative Procedure Act ("APA") generally requires notice and comment rulemaking, section 553 of the APA provides an exception when the agency, for good cause, finds that notice and public procedure are "impracticable, unnecessary, or contrary to the public interest." The Commission concludes that, in the context of these revisions to ASTM standards upon which CPSC's durable infant or toddler product standards are based, which automatically become consumer product standards and that simply would be incorporated by reference into applicable regulatory provisions, notice and comment is not necessary.

Without Commission action to update the incorporation by reference in the CPSC's mandated standards, the standard published in the Code of Federal Regulations will not reflect the revised ASTM standard that will be in effect by operation of law under Pub. L. 112-28. For accuracy, and to avoid misleading the public about the applicable consumer product standard, the Commission believes that issuing a rule revising the incorporation by reference in these circumstances is appropriate. In Recommendation 95-4, the Administrative Conference of the United States ("ACUS") endorsed direct final rulemaking as an appropriate procedure to expedite promulgation of rules that are noncontroversial and that are not expected to generate significant adverse comment. *See* 60 FR 43108 (August 18, 1995). Consistent with the ACUS recommendation, the Commission is publishing this rule as a direct final rule because we do not expect any significant adverse comments.

Revising the regulatory reference to the ASTM standard will conform the regulation to the substantive change in the applicable consumer product standard that will occur by operation of law under Pub. L. 112-28. Public comment will not impact the substantive changes to the standard or the effect of the revised standard as a consumer product safety standard under Pub. L. 112-28. Therefore, there is little for the public to comment upon.

Unless we receive a significant adverse comment within 30 days, the rule will become effective on October 2, 2016. In accordance with ACUS's recommendation, the Commission considers a significant adverse comment to be one where the commenter explains why the rule would be inappropriate, including an assertion challenging the

rule's underlying premise or approach, or a claim that the rule would be ineffective or unacceptable without change.

Should the Commission receive a significant adverse comment, the Commission would withdraw this direct final rule. Depending on the comments and other circumstances, the Commission may then incorporate the adverse comment into a subsequent direct final rule or publish a notice of proposed rulemaking, providing an opportunity for public comment.

D. Effective Date

Under the procedure set forth in Pub. L. 112-28, when a voluntary standard organization revises a standard upon which a consumer product safety standard issued under the Danny Keysar Child Product Safety Notification Act was based, the revision becomes the CPSC standard within 180 days of notification to the Commission, unless the Commission determines that the revision does not improve the safety of the product, or the Commission sets a later date in the *Federal Register*. In accordance with this provision, this rule establishes an effective date that is 180 days after we received notification from ASTM of revisions to these standards. As discussed in the preceding section, this is a direct final rule. Unless we receive a significant adverse comment within 30 days, the rule will become effective on October 2, 2016.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA") generally requires that agencies review proposed and final rules for their potential economic impact on small entities, including small businesses, and prepare regulatory flexibility analyses. 5 U.S.C. 603 and 604. The change to the incorporation by reference in the carriages and stroller standard will not

result in any substantive changes to the standard. Therefore, this rule will not have any economic impact on small entities.

F. Environmental Considerations

The Commission's regulations provide a categorical exclusion for the Commission's rules from any requirement to prepare an environmental assessment or an environmental impact statement because they "have little or no potential for affecting the human environment." 16 CFR 1021.5(c)(2). This rule falls within the categorical exclusion, so no environmental assessment or environmental impact statement is required.

G. Paperwork Reduction Act

The carriages and stroller standard contain information collection requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). No changes have been made to that section of the standard. Thus, these revisions will not have any effect on the information collection requirements related to that standard.

H. Preemption

Section 26(a) of the CPSA, 15 U.S.C. 2075(a), provides that where a "consumer product safety standard under [the Consumer Product Safety Act (CPSA)]" is in effect and applies to a product, no state or political subdivision of a state may either establish or continue in effect a requirement dealing with the same risk of injury unless the state requirement is identical to the federal standard. Section 26(c) of the CPSA also provides that states or political subdivisions of states may apply to the Commission for an exemption from this preemption under certain circumstances.

The Danny Keysar Child Product Safety Notification Act (at section 104(b)(1)(B) of the CPSIA) refers to the rules to be issued under that section as “consumer product safety standards,” thus, implying that the preemptive effect of section 26(a) of the CPSA would apply. Therefore, a rule issued under section 104 of the CPSIA will invoke the preemptive effect of section 26(a) of the CPSA when it becomes effective.

I. Certification

Section 14(a) of the CPSA imposes the requirement that products subject to a consumer product safety rule under the CPSA, or to a similar rule, ban, standard, or regulation under any other act enforced by the Commission, be certified as complying with all applicable CPSC requirements. 15 U.S.C. 2063(a). Such certification must be based on a test of each product, or on a reasonable testing program or, for children’s products, on tests on a sufficient number of samples by a third party conformity assessment body accredited by the Commission to test according to the applicable requirements. As noted in the preceding discussion, standards issued under section 104(b)(1)(B) of the CPSIA are “consumer product safety standards.” Thus, they are subject to the testing and certification requirements of section 14 of the CPSA.

Because carriages and strollers are children’s products, samples of these products must be tested by a third party conformity assessment body whose accreditation has been accepted by the Commission. These products also must comply with all other applicable CPSC requirements, such as the lead content requirements of section 101 of the CPSIA, the tracking label requirement in section 14(a)(5) of the CPSA, and the consumer registration form requirements in the Danny Keysar Child Product Safety Notification Act.

J. Notice of Requirements

In accordance with section 14(a)(3)(B)(iv) of the CPSIA, the Commission has previously published a notice of requirements (“NOR”) for accreditation of third party conformity assessment bodies for testing carriages and strollers (79 FR 13208 (March 10, 2014)). The NORs provided the criteria and process for our acceptance of accreditation of third party conformity assessment bodies for testing carriages and strollers to 16 CFR part 1227 (which incorporated ASTM F833-13b with modifications). The NORs are listed in the Commission’s rule, “Requirements Pertaining to Third Party Conformity Assessment Bodies.” 16 CFR part 1112.

The revisions discussed above do not add any new provisions that would require a third party conformity assessment body (testing laboratory) to conduct additional tests. As discussed above, most of the revisions clarify the existing standard and will not change existing test methods. Although the test method associated with passive containment/foot opening has been clarified to require testing depending on the number of adjustments that can be made in the grab bar/tray as well as footrest or calf support positions, the revision is not expected to affect how a test laboratory tests strollers and convertible carriages/strollers in a stroller mode. Revising the reference to ASTM F833-15 for the carriages and stroller standard will not necessitate any change in the way that third party conformity assessment bodies test these products for compliance to CPSC standards. Therefore, the Commission considers the existing accreditations that the Commission has accepted for testing to this standard also to cover testing to the revised standard. The existing NOR for this standards will remain in place, and CPSC-accepted third party conformity assessment bodies are expected to update the scope of the testing

laboratories' accreditation to reflect the revised standard in the normal course of renewing their accreditation.

K. Incorporation by Reference

The OFR has regulations concerning incorporation by reference. 1 CFR part 51. Under these regulations, agencies must discuss, in the preamble of the final rule, ways that the materials the agency incorporates by reference are reasonably available to interested persons and how interested parties can obtain the materials. In addition, the preamble to the final rule must summarize the material. 1 CFR 51.5(b).

In accordance with the OFR's requirements, section B of this preamble summarizes the ASTM F833-15 standard that the Commission incorporates by reference into 16 CFR part 1227. The standard is reasonably available to interested parties and interested parties may purchase a copy of the standard from ASTM International, 100 Barr Harbor Drive, PO Box C700, West Conshohocken, PA 19428-2959 USA, phone: 610-832-9585; <http://www.astm.org/>. A copy of the standard can also be inspected at CPSC's Office of the Secretary, U.S. Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814, telephone 301-504-7923.

List of Subjects in 16 CFR Part 1227

Consumer protection, Imports, Incorporation by reference, Infants and children, Law enforcement, Safety, Toys.

For the reasons stated above, the Commission amends title 16 CFR chapter II as follows:

PART 1227 – SAFETY STANDARD FOR CARRIAGES AND STROLLERS

1. The authority citation for part 1227 continues to read as follows:

Authority: The Consumer Product Safety Improvement Act of 2008, Pub. L. 110-314, §104, 122 Stat. 3016 (August 14, 2008); Pub. L. 112-28, 125 Stat. 273 (August 12, 2011).

2. Revise § 1227.2 to read as follows:

§ 1227.2 Requirements for carriages and strollers.

Each carriage and stroller shall comply with all applicable provisions of ASTM F833-15, Standard Consumer Safety Specification for Carriages and Strollers, approved November 1, 2015. The Director of the Federal Register approves the incorporation by reference listed in this section in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

You may obtain a copy of this ASTM standard from ASTM International, 100 Barr Harbor Drive, PO Box C700, West Conshohocken, PA 19428-2959 USA; phone: 610-832-9585; <http://www.astm.org/>. You may inspect a copy at the Office of the Secretary, U.S. Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814, telephone 301-504-7923, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

Dated: June 8, 2016.

Todd A. Stevenson, Secretary,
U.S. Consumer Product Safety Commission.

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